IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Revision No. 2458 of 2005.

Date of decision : 11.12.2006

Kulwant Singh ... Petitioner

Versus

Darshan Singh and others ... Respondents.

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Present: Mr. D.P.S.Kahlon, Advocate
for the petitioner.

Mr. B. R. Mahajan, Advocate
for the respondents.

...

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

JUDGMENT

Challenge in the present civil revision is to the order of ejectment passed by the Courts below on the ground that the petitioner is causing nuisance in the premises in dispute.

It has been found by both the Courts below that there are a number of tenants in the building in question and all of them are doing the business of goldsmith. The petitioner is also doing the business of goldsmith on the 2nd floor of the 5-storeyed building. The top storey is to be used for melting of gold by the tenants but the petitioner is using coal **bhatti** and gas gun by placing the same in the passage itself. The use of coal **bhatti** and gas gun in the passage has rightly been found to be a case of nuisance on the basis of which an order of ejectment has been passed by the Courts below.

Learned counsel for the petitioner has vehement argued before this Court that since the landlord and other tenants are in the same business, therefore, the petitioner cannot be ordered to be evicted for using the coal **bhatti** It is alleged that the coal **bhatti** and the gas gun are being used in the tenanted premises and not in the passage.

Both the Courts below have returned a concurrent finding of fact after examining the entire evidence that the petitioner is using coal **bhatti** and gas gun in the passage itself. This is a finding of fact based on appreciation of evidence on record. The use of coal **bhatti** and gas gun is a cause of nuisance. It could not be pointed out that any evidence has been misread or any particular evidence was not taken into account while returning the concurrent finding by the Courts.

Consequently, I find no illegality or irregularity in the orders of the Courts below which may warrant any interference in the exercise of revisional jurisdiction by this Court.

Dismissed.

(HEMANT GUPTA)
JUDGE

December 11, 2006
RS